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ENVIRONMENTAL PROTECTION

DIVISION OF FISH AND WILDLIFE

Fish and Game Council

2014-2015 Fish Code

Proposed Amendments: N.J.A.C. 7:25-6.2 to 6.3, 7:25-6.4, 7:25-6.6 to 6.7, 7:25-6.9 to 6.11, 7:25-6.13 to 6.14, and 7:25-6.20 to 6.22.

Authorized By: Fish and Game Council, Dave Burke, Acting Chair

Authority: N.J.S.A. 13:1B - 29 et seq. and 23:1-1 et seq.

DEP Docket Number:

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number:

A public hearing concerning the proposed amendments will be held on October 8, 2013 at 7:00 p.m. at:

NJ DEP Division of Fish and Wildlife - Central Regional Office
East Branch - Eldridge Road
Assunpink Wildlife Management Area
Robbinsville, New Jersey 08691

Submit written comments by (60 days from publication) electronically at

<http://www.nj.gov/dep/rules/comments>.

The Fish and Game Council (Council) encourages electronic submittal of comments. In the alternative, comments may be submitted on paper to:

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David Chanda, Director, Division of Fish and Wildlife
New Jersey Department of Environmental Protection
Mail Code 501-03
2014-2015 Fish Code Comments
Division of Fish and Wildlife
P.O. Box 420
Trenton, New Jersey 08625-0420

The Council proposal follows:

SUMMARY

The Fish Code (Code), N.J.A.C. 7:25-6, states when, by what means, at which locations, in what numbers, and at what sizes, fish may be pursued, caught, killed, or possessed. As the Council has provided for a 60 day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The proposed amendments to N.J.A.C. 7:25-6 for the 2014 and 2015 fishing seasons are as follows:

1. In N.J.A.C. 7:25-6.2, the Council proposes to remove alewife (anadromous form) and blueback herring from the species allowed to be taken as “baitfish.” As a result, only landlocked (ie, those that do not ascend rivers for breeding) herring will continue to be classified as baitfish under the rules.

In March 2012, the Fish and Game Council issued an Emergency Closure Notice, pursuant to N.J.A.C. 7:25-6.17, for anadromous alewife and blueback herring, collectively referred to as river herring, fisheries. This closure was put in place due to concerns about the signifi-

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cant coastwide decline of river herring stocks and to comply with requirements contained within fishery management plans approved by the Atlantic States Marine Fisheries Commission (ASMFC). The exact cause for these coastwide declines remains uncertain, but numerous factors, such as loss of spawning habitat, impediments to fish passage, water quality degradation and fishing all likely played a role. Amendment 2 of the ASMFC fishery management plan for river herring prohibits both the recreational and commercial harvest of river herring in the waters of states that do not have an ASMFC approved river herring sustainable management plan. New Jersey does not have an approved plan since the available information on river herring stocks is not sufficient to definitively prove the State's river herring stocks are sustainable. Amendment 2 applies to the state's entire population of migratory herring in both marine and fresh waters. Other Atlantic coast states that do not have approved plans (Delaware, Pennsylvania, Maryland, Virginia, Massachusetts and Rhode Island) have closed their river herring fisheries as well.

As a result of the closure, alewife (anadromous), and blueback herring will no longer be listed under the term "baitfish," and, as landlocked populations of alewife do not exist in the Delaware River, references to alewife and blueback herring in the Delaware River being considerd as a foodfish, as that term is defined at N.J.S.A. 23:9-5, are no longer appropriate and are proposed for deletion.

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2. In N.J.A.C. 7:25-6.2, the Council proposes to capitalize the common names of fish species identified under the terms “baitfish,” “foodfish,” “indigenous fish,” “potentially dangerous fish species,” “trout,” and “warmwater fish” to reflect changes in the taxonomic nomenclature established by the American Fisheries Society in the newly released 7th edition of Common and Scientific Names of Fishes from the United States, Canada, and Mexico, April 2013. The scientific names of Brown Bullhead (in the definition of “foodfish”), banded killifish, hogchoker, gizzard shad, common shiner, spottail shiner, Atlantic sturgeon and white sucker, (in the definition of “indigenous fish”), and bighead carp (in the definition of “potentially dangerous fish”) are proposed for amendment in N.J.A.C. 7:25-6.2 in accordance with proper taxonomic nomenclature rules established by the American Fisheries Society.

The Council is similarly proposing to amend the common names of carp (in the definition of “foodfish”), and cutlips minnow and redbreasted sunfish (in the definition of “indigenous fish”) to reflect changes in the taxonomic nomenclature established by the American Fisheries Society.

3. Also in N.J.A.C. 7:25-6.2, the Council proposes to remove blueback herring from the species allowed to be taken as “foodfish.” As explained in summary item 1, the Fish and Game Council issued an Emergency Closure Notice in March 2012, under N.J.A.C. 7:25-6.17, for all migratory alewife and blueback herring fisheries in accordance with Amendment 2 of the ASMFC fishery management plan for river herring. Amendment 2 prohibits both the recreational and commercial harvest of river herring in the waters of states that do not have an ASMFC approved river herring sustainable management plan. New Jersey does not have an

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approved plan since the available information on river herring stocks is not sufficient to definitively prove the State's river herring stocks are sustainable.

4. Also in N.J.A.C. 7:25-6.2, the Council proposes to define the term "set line." The use of set lines, in waters inhabited by a variety of common game species, is prohibited under N.J.S.A. 23:5-13. As these species, or a subset thereof, are well distributed throughout the State, for all practical purposes the use of set lines is not permitted in any New Jersey water. A set line includes devices such as "trot lines" and other similar devices that consist of a line, or multiple lines, placed in freshwaters of the State, for the purpose of taking fish or turtles. Such lines are secured to shore, or to a fixed or buoyant object. All rods, reels or hand lines not under immediate control of the angler are also considered set lines. As new devices and angling tactics, such as floatable tip-ups, have come into use, a definitive explanation of the term is warranted.
5. As explained in summary item 10 the Council is proposing to remove Farrington Lake from the Division's trout stocking program and to extend the upstream boundary of the trout-stocked section of Lawrence Brook from the Farrington Lake dam to the Davidson's Mill Pond dam, upstream of Farrington Lake. As a result of this change, the Council proposes in N.J.A.C. 7:25-6.3(b)1 to remove Farrington Lake, and instead exempt a portion of the newly expanded trout-stocked section of Lawrence Brook, from Davidson's Mill Road bridge downstream to the Farrington Lake dam, from the pre-season fishing closure. This exemption will continue to allow anglers the opportunity to target other early season fisheries in the lake and the portion of Lawrence Brook located upstream to Davidson's Mill Road while

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protecting the stocked trout in the narrow stream section, from Davidson's Mill Road to Davidson's Mill Pond dam, where they are easily targeted. Any trout caught during the pre-season stocking period would have to be immediately released.

6. For consistency purposes with language used in other subsections in N.J.A.C. 7:25-6.3, the Council proposes to rephrase rule text relative to in-season fishing closures for fifteen specified waters in N.J.A.C. 7:25-6.3(h). This change is administrative in nature and results in no change to times, dates, or waters for which these closures are applied.
7. As explained below in summary item 11, the Council is proposing to add Mountain Lake, Warren County, to the Division's trout stocking program. Due to the popularity of early season fishing for muskellunge at Mountain Lake, the Council proposes to exempt Mountain Lake from the pre-season stocking closure in N.J.A.C. 7:25-6.3(b)1 to allow muskellunge fishing to continue during the pre-season closure period defined at N.J.A.C. 7:25-6.2. All trout caught during the pre-season closure period would have to be immediately released.
8. For consistency and clarification purposes, in N.J.A.C. 7:25-6.3(h)2ii, the Council proposes to add Morris County to complete the list of counties that are traversed by the Raritan River South Branch from its origin at Budd Lake to its confluence with the North Branch.
9. The Council proposes to amend N.J.A.C. 7:25-6.3(i) to remove three waterbodies, Fanning Lake (Middlesex), Shadow Lake (Monmouth), and Takanassee Lake (Monmouth) from the Division's trout stocking program.

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Large lakes, such as Farrington Lake, yield lower return rates for trout resulting in low angler success and interest comparative to their size. To improve their success, the majority of anglers fish the stream that feeds Farrington Lake at the base of the next upstream dam. This upstream reach is actually part of Lawrence Brook which is currently stocked by the Division below the lake. The Council proposes to expand stocking within Lawrence Brook from its current upstream limit of the dam at Farrington Lake to the Davidson's Mill Pond dam and discontinue stocking Farrington Lake. Farrington Lake supports a variety of warmwater fish species and will continue to provide excellent fishing opportunities for species other than trout.

Shadow Lake was added to the Division's trout stocking program in 1996 in the anticipation of planned improvements by the county that would greatly improve public access. Although certain aspects of the project have occurred, they have not resulted in significant improvement in public access and future improvements appear unlikely.

The bulkhead at Takanassee Lake was severely damaged during Hurricane Sandy resulting in draining of the lake. The timeframe for completing bulkhead repairs and refilling the lake is uncertain. The lake is immediately adjacent to the Atlantic Ocean and periodic saltwater intrusion has impacted the lake's freshwater fisheries including the viability of stocked trout.

10. In addition to recommending to remove the above referenced waters from the list of trout stocked waters, the Council proposes to amend N.J.A.C. 7:25-6.3(i) to add four waterbodies,

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Manalapan Lake (Middlesex), Franklin Lake (Monmouth), Nomahegan Park Pond (Union), and Mountain Lake (Warren), to the Division's trout stocking program. Manalapan Lake and Franklin Lake both have excellent access and will maintain trout fishing opportunities in their respective areas, replacing Farrington Lake and Takanassee Lake, which are proposed for removal. Nomahegan Park Pond, stocked with trout pre-season only, will provide an additional early season trout fishing opportunity in a suburban area that is popular with trout anglers.

Mountain Lake was removed from the Division's trout stocking program in 2006 due to the lake's large size and limited public access which resulted in poor angler turnout. Since that time, Liberty Township has acquired property along the shoreline which has improved public access. The Council proposes reinstating trout stocking to acknowledge the Township's efforts towards improving angling access. Mountain Lake would be stocked pre-season only.

11. At N.J.A.C. 7:25-6.3(i)12, the Council proposes to extend the upstream boundary of the trout-stocked section of Lawrence Brook from the Farrington Lake dam upstream to the Davidson's Mill Pond dam. Although trout are currently stocked from the base of Davidson's Mill Pond dam downstream to Farrington Lake, this area is not delineated as trout stocked and therefore fishing during the pre-season closure is not prohibited. This proposed change would properly identify the brook's upstream boundary and extend the pre-season fishing closure an additional one-half mile. As previously explained in summary item 5, the portion of Lawrence Brook from Farrington Lake dam upstream to Davidson's Mill Road bridge is

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proposed to be exempted from the pre-season fishing closure to allow anglers to target other early season fisheries.

12. For consistency with waterbody names established within the State's Surface Water Quality Standards, at N.J.A.C. 7:9B-1.15, and on United States Geological Survey's Topographical Maps, the Council proposes to modify "Hockhocksen Brook" to "Hockhockson Brook" in N.J.A.C. 7:25-6.3(i)13. The Council also proposes to replace "Hockhocksen Road" with "Hockhockson Road" for consistency with designated road names in Monmouth County, and to replace the term "Bridge" with "bridge" for consistency with similar references within the Code.
13. In N.J.A.C. 7:25-6.3(i)16, the Council proposes to clarify the location of Green Turtle Pond (Hewitt) by identifying its location within Long Pond Iron Works State Park. This change does not impact in any way the area stocked.
14. For consistency with waterbody names established within the State's Surface Water Quality Standards, at N.J.A.C. 7:9B-1.15, and on United States Geological Survey's Topographical Maps, the Council proposes to modify "Clove River" to "Clove Brook" in N.J.A.C. 7:25-6.3(i)19. The Council also proposes to clarify the stream's location in Wantage and to replace the term "Bridge" with "bridge" for consistency with similar references within the Code. This change does not impact in any way the area stocked.
15. Glenwood Brook is stocked from Lake Glenwood to the New York State line. The Council

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for consistency and clarification purposes is proposing to amend the trout stocked delineation from “Lake Glenwood to State line” to “Lake Glenwood dam to New York State line.”

This change does not impact in any way the area stocked.

16. For consistency and clarification purposes, the Council proposes to further identify the location of the trout stocked section of Wawayanda Creek as Vernon in N.J.A.C. 7:25-6.3(i)19.

This change does not impact in any way the area stocked.

17. For consistency and clarification purposes, the Council proposes to further identify the location of the trout stocked section of Brookaloo Swamp as Hope in N.J.A.C. 7:25-6.3(i)21.

This change does not impact in any way the area stocked.

18. In N.J.A.C. 7:25-6.4, the Council proposes to regulate the Big Flat Brook, from the Route 206 bridge downstream to the Roy Bridge, and the South Branch of the Raritan River, Ken Lockwood Gorge section, as catch and release only, artificial lures and flies only.

Both river sections support trout year round, with both stocked and wild trout present, and are popular among trout anglers. Currently the 4.2-mile section of the Big Flat Brook is regulated as a fly fishing water except during the first nine days of the season when both spin and fly fishing gear may be used, bait and artificial lures other than flies are permitted, except for the Blewett Tract where anglers are restricted to fly fishing at all times. Although the stretch has gear restrictions, it carries a liberal harvest limit of six trout per day in April and May. Electrofishing surveys conducted during the summer of 2007 and 2012 indicate very few trout remaining by mid-summer. The low number of trout may be a result of one

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or more factors, including significant harvest by anglers and/or a variety of ecological conditions.

To ascertain the role harvest plays in limited trout availability, the Council proposes year round catch and release regulations. The regulations should result in an increase in trout abundance, improve catch rates, and enhance angler satisfaction. As scientific studies have demonstrated that hooking mortality is higher with live bait than with artificial lures and flies, the possession or use of bait is proposed to be prohibited at all times. For similar reasons, artificially enhanced substances are also proposed to be prohibited. The current gear restriction for fly fishing is proposed to be amended to allow spin fishing and artificial lures and flies for the entire 4.2 mile stretch, including the Blewett Tract. Since this section, which currently addresses special trout fly fishing areas, is proposed for amendment to make the waters subject to this section catch and release waters, not limited to fly fishing, but subject to other restrictions, the title of this subsection is proposed to be amended to reflect these changes. The Council also proposes to clarify that the 4.2 mile stretch regulated as the Big Flat Brook includes a section of the Flat Brook from the junction of the Big Flat Brook and the Little Flat Brook downstream to the Roy Bridge. This section of the Flat Brook is consistently regulated as part of the specially regulated portion of the Big Flat Brook within the Code (see, e.g., N.J.A.C. 7:25- 6.3(h)).

Contrary to conditions in the Big Flat Brook, electrofishing surveys of the Ken Lockwood Gorge section of the South Branch of the Raritan River indicate an increasing wild population of brook, brown and rainbow trout. This 2.5-mile stretch is currently regulated as a

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Year Round Trout Conservation Area under N.J.A.C. 7:25-6.7(a)4 with a 15-inch minimum size, one trout per day limit. 99.5 percent of trout captured during the surveys are less than the 15-inch minimum size indicating the harvest of these larger trout may be preventing the fishery to fully develop to its potential. Angler catch records provide further evidence of the low occurrence of larger trout, with 96 percent of the 1,197 reportedly caught, measuring less than fifteen inches. The catch and release only regulations will provide protection to the fishery and lead to the availability of larger fish for anglers, resulting in enhanced angling success and satisfaction. This section of the South Branch is already restricted to the use of artificial lures and flies only pursuant to N.J.A.C. 7:25-6. 7(a)4.

19. For consistency with waterbody names established within the State's Surface Water Quality Standards at N.J.A.C. 7:9B-1.15 and the United States Geological Survey's Topographical Maps, the Council proposes to modify "Rhineharts Brook" to "Rinehart Brook" in N.J.A.C. 7:25-6.6(a)23.
20. For consistency with waterbody names established within the State's Surface Water Quality Standards at N.J.A.C. 7:9B-1.15 and the United States Geological Survey's Topographical Maps, the Council proposes to modify "Tetertown Brook" to "Teertown Brook" in N.J.A.C. 7:25-6.6(a)29. The Council also proposes to further identify the location of Teertown Brook as Lebanon Twp. (Hunterdon) and Washington Twp. (Morris). These changes do not impact in any way the area stocked.

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21. As explained in summary item 19, the Council proposes to no longer regulate the Ken Lockwood Gorge section of the South Branch of the Raritan River as a Year Round Conservation Area in N.J.A.C. 7:25-6.7(a)4. Instead, this portion of the South Branch of the Raritan River is proposed to be regulated as a special regulation trout fishing area subject to catch and release fishing only under proposed N.J.A.C. 7:25-6.4(a)2.

22. In N.J.A.C. 7:25-6.9, the Council proposes to regulate Tilcon Lake as a Holdover Trout Lake. Holdover trout lakes are able to support trout year round. Tilcon Lake is an 88 acre lake located within Allamuchy Mountain State Park. Over 50 feet deep, dissolved oxygen/temperature profiles completed in 2007 and 2008 indicate the lake has 26 to 28 feet of trout supporting water making it a potential candidate for the introduction of landlocked salmon. Designating Tilcon Lake as a Holdover Trout Lake establishes a 12-inch minimum size limit for Atlantic salmon, and a daily creel limit of two salmon per day. The establishment of a landlocked salmon fishery in Tilcon Lake would enhance recreational fishing opportunities for this species currently stocked in only two other waterbodies within the State. It would be only the third water stocked with salmon in New Jersey.

For clarification and consistency, the Council also proposes to list waters in N.J.A.C. 7:25-6.9 alphabetically, and to identify county locations.

23. As indicated in summary item 1, in March 2012, the Fish and Game Council issued an Emergency Closure Notice, under N.J.A.C. 7:25-6.17, for all migratory alewife and blue-back herring fisheries to comply with requirements contained within fishery management

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plans approved by the ASMFC. These plans prohibit both the recreational and commercial harvest of river herring in waters of states, such as New Jersey, that have not been proven to have sustainable herring fisheries. The Council proposes to reflect this closure by prohibiting the possession, take or sale of alewife or blueback herring from any freshwater stream or river in N.J.A.C. 7:25-6.10(b). To further emphasize the closure, in N.J.A.C. 7:25-6.10(a) the Council proposes to specify that anglers may take up to 35 baitfish per day except for alewife and blueback herring and to add a cross-reference to proposed (b) through (d), which specify limits on the possession, take, attempt to take, sale and purchase of alewife and blueback herring.

24. Although there are significant concerns regarding migratory and coastal stocks of herring, landlocked alewife populations in lakes are considered stable. As such, the Council proposes in N.J.A.C. 7:25-6.10(c) to increase the daily creel of landlocked alewife herring, for personal use, from 10 to 35 in freshwater lakes in Morris, Passaic, Sussex and Warren counties. The 10 fish limit is currently contained in N.J.A.C. 7:25-6.10(a). Unlike many lakes in central and southern counties, lakes in these areas are not on-stream impoundments on known migratory herring runs. Harvest is also proposed in Spruce Run Reservoir in Hunterdon County due to its excellent landlocked alewife population.

Landlocked herring taken from lakes within these counties may only be used on the lake from which they were taken. Due to the difficulty of distinguishing between landlocked and migratory species of herring, any unused herring must be returned to the waterbody upon the conclusion of the angler's fishing trip. They may not be transported away from the shoreline

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of the lake by any mechanism. A six-inch maximum size limit is also proposed as landlocked herring are notably smaller in size than their migratory counterparts. Besides some variation in size, there are no distinctive identifying characteristics to determine between a landlocked or migratory herring regardless of species. The proposed size limit and requiring any unused herring to be returned to the waterbody will help deter unscrupulous anglers from attempting to pass off illegally taken migratory herring as landlocked.

These changes are consistent with the Emergency Closure Notice issued by the Fish and Game Council, in March 2012, and with requirements contained within ASMFC approved fishery management plans.

25. As possession of herring is prohibited along freshwater streams and rivers (see summary item 24) the Council proposes to delete existing N.J.A.C. 7:25-6.10(d) that allows for the possession of purchased herring in excess of the daily limit in all waters and replace it with proposed N.J.A.C. 7:25-6.10(d), which would allow possession of purchased herring only in freshwater lakes other than those specified in proposed N.J.A.C. 7:25-6.10(c). Purchased herring may be no greater than six inches in length, and may be possessed for up to seven days from date of purchase, when accompanied by a receipt. As migratory herring are notably larger the proposed size restriction will help deter anglers from attempting to pass off illegally obtained migratory herring as those that were purchased. These changes are consistent with the Emergency Closure Notice issued by the Fish and Game Council, in March 2012, and with ASMFC approved management plans.

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26. As a result of other proposed changes in summary items 24 through 26, the manner in which baitfish may be taken is proposed to be recodified from N.J.A.C. 7:25-6.10(b) to N.J.A.C. 7:25-6.10(e). The Council also proposes to emphasize the closure, in proposed N.J.A.C. 7:25-6.10(e), by specifying that anglers may take up to 35 baitfish per day, except for alewife and blueback herring.
27. As a result of other proposed changes in summary items 24 through 26, the manner in which baitfish may be taken in trout stocked waters is proposed to be recodified from N.J.A.C. 7:25-6.10(c) to N.J.A.C. 7:25-6.10(f). The Council also proposes to emphasize the closure, in N.J.A.C. 7:25-6.10(f), by specifying that anglers may take up to 35 baitfish per day, except for alewife and blueback herring.
28. As a result of other proposed changes in summary items 24 through 26, provisions for allowing baitfish to be taken in excess of the daily limit under a special permit issued by the Division is proposed to be recodified from N.J.A.C. 7:25-6.10(e) to N.J.A.C. 7:25-6.10(g).
29. As discussed below in summary item 33, in accordance with Amendment 3 of the ASMFC's and the Delaware River Basin Fish and Wildlife Management Cooperative's (COOP) management plans for American shad, due to concerns of depleting American shad populations, it has become necessary to for all waters of the State, with the exception of the Delaware River and its tributaries, to be closed to the harvest of American shad.

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As American shad is a foodfish in the Delaware River, in accordance with N.J.S.A. 23:9-5, the Council proposes to further specify in the provisions for the taking of foodfish, in N.J.A.C. 7:25-6.11(a)2, that American shad may be only taken from the Delaware River and its tributaries.

In N.J.A.C. 7:25-6.11(a)2, the Council also proposes to clarify that the only gear types that may be used for the taking of foodfish are those “identified in (i) to (v).” This reference to the specific subparagraphs identifying acceptable gear replaces the current general reference to “the following means.” This is for clarification purposes and results in no change to the type of gear or seasons established for the harvest of foodfish.

30. As explained in summary item 1, in March 2012, the Fish and Game Council issued an Emergency Closure Notice, under N.J.A.C. 7:25-6.17, for all migratory alewife and blueback herring fisheries. These regulations were put in place due to concerns about the significant coastwide decline of river herring stocks and to comply with requirements outlined in ASMFC approved management plans. These requirements prohibit both the recreational and commercial harvest of river herring in waters of states, such as New Jersey, that have not been proven to have sustainable herring fisheries. As a result, the Council proposes to prohibit the use of gill nets, staked or floating, in freshwater rivers or streams where the presence of migratory populations of alewife or blueback herring has been documented in N.J.A.C. 7:25-6.11(a)2iv and v. Capture of this fragile species, in nets of this type, results in significant if not total mortality, both immediate and delayed.

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31. In N.J.A.C. 7:25-6.13(d), the Council proposes to remove catch and release regulations for largemouth and smallmouth bass in Lake Audrey (Cumberland County) and in N.J.A.C. 7:25-6.13(e) establish a 15-inch minimum size limit and a daily creel and possession limit of three for largemouth and smallmouth bass in the lake. Lake Audrey is a 120 acre borrow pit acquired by the Department in 2004. The low pH waters were neutralized with 136 tons of lime and then subsequently stocked by the Division with a variety of warmwater species including smallmouth bass. In 2010, catch and release regulations for bass were instituted to protect the developing smallmouth bass fishery that is limited in southern New Jersey. The current catch and release regulations have not provided the intended results of a trophy fishery for smallmouth bass due to the illegal harvest of smallmouth bass, the illegal introduction of largemouth bass by anglers, and unstable pH levels. Electrofishing surveys completed from 2007 to 2012 show a decrease in the smallmouth bass population and an increasing largemouth bass population. The pH levels initially stabilized by liming have also dropped with levels as low as 4.5 documented. These low pH levels are not conducive to supporting a reproducing smallmouth bass population. Meanwhile largemouth bass continue to demonstrate good growth rates. Managing Lake Audrey under more liberal bass regulations will improve the bass fishery and attract more anglers to the lake.
32. The Atlantic States Marine Fisheries Commission's (ASMFC) Shad and River Herring Board met in February 2010 to approve Amendment 3 to the fishery management plan for American shad. The Board's action on Amendment 3 was taken in response to widespread concern regarding the decline of American shad stocks coastwide. The amendment prohib-

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its the harvest or landing of American shad within state waters, for both commercial and recreational fisheries, beginning January 1, 2013 unless a state or jurisdiction develops and submits for approval a sustainable management plan. The amendment defines a sustainable fishery as “a commercial and/or recreational fishery that will not diminish the potential future stock reproduction and recruitment.”

The Department has reviewed its available information on American shad stocks in the State, but finds that there is not sufficient information available to definitively prove that any of the State's American shad stocks are sustainable, except the Delaware stock (the Delaware Bay and Delaware River and its tributaries). Following data analysis of the Delaware stock, a Delaware Basin Sustainability Plan (DBSP), completed in conjunction with the Delaware River Basin Fish & Wildlife Management Cooperative, was approved by ASMFC in February 2012. Accordingly, pursuant to Amendment 3 and the DBSP, New Jersey is mandated to close all State waters American shad fisheries (both commercial and recreational), with the exception of the Delaware Bay, and Delaware River and its tributaries, beginning January 1, 2013. In compliance with the ASMFC mandate, the Director of Fish and Wildlife, with the Fish and Game Council's approval, issued an Emergency Closure Notice, under N.J.A.C. 7:25-6.17 in March 2013. In N.J.A.C. 7:25-6.13(o) the Council proposes to reflect this closure in the State Fish Code. Angling regulations remain unchanged for the Delaware River and its tributaries, with three fish allowed per day in N.J.A.C. 7:25-6.20.

33. For clarification and organizational purposes, the Council is proposing to reorganize N.J.A.C. 7:25-6.14(b) and specify the types of devices that may be used for ice fishing in the

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lead-in language of N.J.A.C. 7:25-6.14(b). The Council also proposes to replace the term “lines” with “fishing rods, and hand lines” to clarify that both fishing rods and hand lines are permitted. As a result of these proposed changes, the devices that may be used for ice fishing can be clearly defined as “any combination of ice supported tip-ups, fishing rods, or hand lines.” These changes are administrative in nature and do not reflect any changes to currently permitted ice fishing devices.

34. Also in N.J.A.C. 7:25-6.14(b), the Council proposes that an ice fishing device be limited to a single line. As more creative devices, both commercially manufactured and personally devised, are being used by anglers, the Council deems it necessary to restrict ice supported tip-ups, fishing rods and hand lines to a single line per device. The restriction would prevent anglers from attaching multiple lines to each device which would circumvent the original intent of the five device limit.
35. For further clarification, the word “lines” in N.J.A.C. 7:25-6.14(b)1 is proposed to be replaced with “hand lines may have only one single pointed hook attached.” This change is administrative in nature and does not reflect any change to the types of hooks permitted with a tip-up or hand line while ice fishing.
36. For clarification purposes, hook restrictions for artificial lures identified in N.J.A.C. 7:25-6.14(b)2 to 4 are proposed to be consolidated in N.J.A.C. 7:25-6.14(b)2. As a result, N.J.A.C. 7:25-6.14(b)3 and 4 are proposed for deletion. This paragraph is additionally proposed for amendment to make clear that artificial lures are used with a fishing rod. Artificial

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lures are not designed to be used with other ice fishing devices such as tip-ups or hand lines. These changes are for clarification purposes and do not result in any change to the number or size of hooks permitted when ice fishing with a fishing rod. The term “jigging” is also proposed to be deleted from the phrase “artificial jigging lure” as jigging is a style of fishing not a specific lure type as the phrase implies.

37. In N.J.A.C. 7:25-6.14(c), the Council proposes to expand and clarify the types of bait that may be used by anglers when ice fishing. Current regulations specify that natural bait may only be used with artificial jigging lures. However, when ice fishing with tip-ups and hand lines, it is a commonly accepted practice to use live bait. As the risk of fish ingesting bait is the same regardless of the type of device used, the Council proposes to expand the types of devices that may use natural bait to include all allowed ice fishing devices. The Council also proposes to expand the description of baits to include artificial as well as natural bait, as ingesting of bait is the same regardless of the type of bait used, artificial or natural.
38. The Council also proposes to recodify the requirement currently contained in N.J.A.C. 7:25-6.14(c) that non hand-held ice fishing devices must be clearly marked with the name and address of the angler to proposed new N.J.A.C. 7:25-6.14(d). This is for clarification purposes and results in no change to the identification requirements for ice fishing devices.
39. In N.J.A.C. 7:25-6.14(e), the Council proposes to reiterate that all established creel, season, and size limits apply when ice is present. Creel, season, and size limits are established for a multitude of freshwater fish species throughout the Fish Code. These limits protect fish dur-

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ing critical spawning periods as well as periods of elevated angler interest, while providing a variety of angling opportunities for differing angler interests. These regulations are applicable throughout the year regardless of the presence or absence of ice.

40. As explained in summary item 1, the Fish and Game Council issued an Emergency Closure Notice in March 2012, under N.J.A.C. 7:25-6.17, for all migratory alewife and blueback herring fisheries in accordance with Amendment 2 of the ASMFC fishery management plan for river herring. Amendment 2 prohibits both the recreational and commercial harvest of river herring in the waters of states that do not have an ASMFC- approved river herring sustainable management plan. New Jersey does not have an approved plan since the available information on river herring stocks is not sufficient to definitively prove the State's river herring stocks are sustainable. Amendment 2 of the ASMFC fishery management plan for river herring applies to the State's entire population of migratory herring in both marine and fresh waters, including the Delaware River. Accordingly, the Council proposes to reflect the closure of the alewife and blueback fishery in the Delaware River in N.J.A.C. 7:25-6.20(a)1 by placing the word closed in the "season" column and deleting the previously applicable size and daily bag limits.
41. N.J.S.A. 23:2A-6 prohibits the take, possession, transportation and sale of any Federally, or State listed endangered species. This prohibition immediately becomes effective upon the listing of a particular species. As Atlantic sturgeon is a Federally listed endangered species (see 50 C.F.R. §§ 17.11-12), the take or possession of this species is prohibited by statute. For efficiency purposes, the Council proposes in N.J.A.C. 7:25-6.21 to remove the prohibi-

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ed take or possession of Atlantic Sturgeon as it relates to the fresh tidal tributaries of the Delaware River and Bay as it is redundant. This proposed change eliminates unnecessary subsequent updates to the code each time a species is newly listed. As this is the only rule specifically applied to the fresh tidal tributaries of the Delaware River and Bay, N.J.A.C. 7:25-6.21 is proposed to be reserved. Any trout or warmwater fish that may inhabit these waters are regulated within other specific areas of the Code.

42. In N.J.A.C. 7:25-6.22(d)3vii and viii, the Council proposes to require that traps for the taking of snapping turtles be set so that the topmost two inches of the trap remains exposed above the surface of the water and that flotation devices in the traps be designed to maintain the trap afloat for 24 hours. Turtle harvesters are currently required to check their traps every 24 hours. These amendments will provide definitive, enforceable standards that will ensure the survival of both targeted and untargeted turtle species that need to reach the surface to breathe.

As a result of the addition of these proposed new subparagraphs, existing N.J.A.C. 7:25-6.22(d)3vii, which requires that commercial snapping turtle harvesters must also comply with any local ordinances and other State laws or regulations, is proposed to be recodified to N.J.A.C. 7:25-6.22(d)3ix.

43. In N.J.A.C. 7:25-6.22(d)3x the Council proposes that the harvest of snapping turtles be prohibited from waters that are subject to a Department of Environmental Protection (Depart-

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ment) fish consumption advisory, for the general population, for any fish species of “do not harvest,” “do not eat,” or “no more than one meal per year.” These advisories are updated regularly and published in the Department’s *Fish Smart, Eat Smart* publication and can be found at <http://www.state.nj.us/dep/dsr/fishadvisories/2013-final-fish-advisories.pdf>.

Snapping turtles are harvested for the sole purpose of human consumption. Currently, the Department lacks data on contaminant levels of dioxins, PCB’s or mercury in snapping turtle tissue. Bioaccumulation of these contaminants is known to occur through the food chain. As snapping turtles are a long lived, top level predator to many of the fish species currently tested by the Department, the Council proposes to use the established advisories for fish to prohibit the harvest of snapping turtles in waters that warrant the most serious fish consumption advisories.

Fish consumption advisories are developed through a scientific process that includes collecting samples of fish from waters throughout the State and analyzing them for various chemical contaminants, such as dioxin, PCBs and mercury. The contaminant levels in the fish are then evaluated using Federal guidelines for protecting human health.

Social Impacts

The proposed amendments to the Code balance opportunities for recreational fishing with adequate

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protection of the natural resource and are anticipated to have a positive social impact. The proposed amendments which add trout stocking locations are designed to increase the overall fishing opportunities in their specific regions. Even the loss of stocked locations benefit the angler since fish can then be reallocated to waters which provide better angling success or access. Negative social impacts, such as the loss of traditional fishing locations, will be offset by the alternative fishing opportunities which already exist in these areas.”

Amendments that extend designated stretches of current trout stocked waters will have positive social benefits by applying appropriate preseason fishing closures to these areas which are already being stocked. In addition to assuring pre-season fishing closures are in place where appropriate, publicizing that these additional reaches are stocked will eliminate the unfair advantage that anglers familiar with trout stocking locations in these areas previously had as the previous stocking activities were not publicized. There will be negative social impacts, such as a reduction in fishable locations, to anglers who currently fish these stretches during the preseason trout stocking period as allowed under the current designations. However, the benefits to the resource and to the public participating in fishing recreationally from putting the limited preseason closure in place will outweigh any impact experienced during the pre-season stocking period.

The establishment of catch and release only regulations for trout on the Big Flat Brook, from the Rt. 206 bridge downstream to the Roy bridge, and the Ken Lockwood Gorge section of the South Branch of the Raritan River, are anticipated to have positive social benefits for anglers who prefer not to harvest trout and do not fish with bait, such as an increase in the abundance and size of trout available for future angling. Expanding allowed gear on this section of the Big Flat Brook to in-

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clude spin fishing with artificial lures in addition to fly fishing is anticipated to have positive social benefits for anglers who prefer to spin fish, practice catch and release, and do not fish with bait, as the abundance and size of trout will increase and spin fishermen will have additional stream mileage for their preferred angling technique. There will be negative social impacts to fly anglers who prefer not to fish with anglers using spinfishing gear and those who favor the stream's long history of fly fishing only, particularly the Blewett Tract, as they will have to share the resource with anglers who use different angling gear. Anglers who fish with bait during the first nine days of the spring trout season and those who want to keep fish would be prevented from doing so and would be negatively impacted by this change. Negative social impacts will be offset by increases in trout abundance, size, improved angler catch rates, and ultimately enhanced angler satisfaction over time.

Amendments to provisions related to the harvest of migratory alewife and blueback herring fisheries eliminating reference to the take of these species will not have any social impact. As indicated in the summary above, these fisheries were closed by the Council in March 2012. The amendments being proposed at this time do not affect the closure, instead they amend the rules to recognize the ASMFC's mandated closure of migratory alewife and blueback herring fisheries. The impacts that were created by the closure notice in 2012 are justified by the biological gain of affording protection to the struggling migratory herring populations up and down the Atlantic coast.

Amendments recognizing the closure of American shad fisheries in New Jersey waters, except for the Delaware River, will not have any social impact. The amendments being proposed at this time do not affect the closure but amend the rules to recognize the closure of shad fisheries, excluding the Delaware River, by emergency notice in February 2013. The small number of anglers known to

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target shad in the Raritan River, and other lesser known fisheries, were impacted by the closure. As only 465 American shad were documented migrating through the Island Farm Weir on the Raritan River in 2012, the protection of this struggling fishery will offset the negative social impact of any potentially displaced anglers.

Amendments to replace catch and release regulations on Lake Audrey with limited harvest regulations for largemouth and smallmouth bass will have positive social benefits. The proposed regulations will provide continued protection of this developing fishery which will result in increasing long-term benefits while allowing some harvest by anglers.

Amendments proposed to clarify the devices that may be used while ice fishing will have positive social benefits. Presenting regulations in a clear and concise manner provides better understanding and adherence to the regulation by anglers.

Economic Impact

Overall, an increase in angling opportunities is anticipated as a result of these amendments which will provide increased revenue for those businesses that support and serve fishermen. There may be slight negative economic impacts in localized areas where trout stocking is proposed to be discontinued. However, other existing trout fishing opportunities that occur in these areas will offset these impacts. Positive economic benefits are anticipated in areas where trout stocking will be initiated as a result of increased fishing opportunities.

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Amendments to provisions related to the harvest of migratory alewife and blueback herring fisheries eliminating reference to the take of these species, both commercially and recreationally, will not have an economic impact. As indicated in the summary above, these fisheries were closed by the Council in March 2012. The amendments being proposed at this time do not affect the closure, instead they amend the rules to recognize the ASMFC's mandated closure of migratory alewife and blueback herring fisheries. The economic impacts that were created by the closure notice in 2012 are justified by the biological gain of the protection afforded the struggling herring fishery and the potential threat for far more significant economic impacts if these fisheries were to ultimately fail.

Amendments relating to the closure of the American shad fisheries in fresh waters of the state, except for the Delaware River, are not anticipated to have any economic impacts as the Delaware River supports the State's primary shad fishery and it is exempted from the closure as the shad population in the Delaware River has proven to be sustainable.

Amendments requiring commercial snapping turtle harvesters to use traps constructed in a manner that assures a portion of the trap is above the surface of the water to provide access to air for trapped targeted and non-targeted turtle species is not anticipated to have any economic impact to commercial harvesters as materials typically used for flotation are relatively inexpensive.

Negligible economic impacts are anticipated from amendments banning the harvest of snapping turtles for human consumption from water subject to a fish consumption advisory recommending significant consumption limitations. Although anticipated to be negligible, any negative economic impacts resulting from this amendment are offset by the protection afforded to the general public that

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may unknowingly consume turtles taken from such waters.

The amendments to the Fish Code do not affect the current costs associated with how the Division of Fish and Wildlife manages the freshwater fisheries resource and are not expected to result in increased expenditures by anglers. The 2011 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation estimated that the total expenditure by freshwater anglers in the State of New Jersey was \$408 million per year with over \$32 million generated in State and local tax revenues annually. The sale of fishing licenses and trout stamps generates over \$3.5 million for the Department's Division of Fish and Wildlife annually. These funds are used towards the protection, propagation and management of the State's freshwater resources directly benefitting the State's eight million residents.

Environmental Impact

The proposed amendments are designed to have a positive environmental impact in continuing the conservation, management and enhancement of the State's freshwater fisheries resources based on their current population, distribution, and habitat status. Amendments which protect species during their critical spawning periods or set creel or minimum size limits have positive environmental impacts in providing for the protection of species while allowing appropriate recreational and commercial harvest which creates positive environmental impacts by preventing overpopulation.

Amendments reflecting the closure of commercial and recreational fisheries for species such as American shad, alewife and blueback herring do not provide an environmental benefit as these fish-

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eries were previously closed by the Council through emergency notice. The amendments being proposed at this time do not affect the closure, instead they amend the rules to recognize the AS-MFC's mandated closure of migratory alewife and blueback herring fisheries and American shad (excluding the Delaware River and its tributaries). Positive environmental impacts were created by the closures by providing protection to struggling migratory populations of alewife, blueback herring and American shad up and down the Atlantic coast.

The establishment of catch and release only regulations for trout on the Big Flat Brook, from Rt. 206 bridge downstream to the Roy bridge, and in the Ken Lockwood Gorge section of the South Branch of the Raritan River, is anticipated to have positive environmental benefits. Electrofishing surveys on the Big Flat Brook not long after the stocking season ends have shown a low abundance of trout. While the trout are more numerous in the Ken Lockwood Gorge, few trout have been documented larger than the current 15-inch size limit. The regulations are anticipated to increase trout size and abundance in these two popular trout waters.

The amendment prohibiting the use of bait on the 4.2-mile section of the Flat Brook is also anticipated to have positive environmental benefits. Prohibiting bait will result in improved survival of trout, after release by anglers, as scientific studies have demonstrated that hooking mortality is higher with bait than with artificial lures and flies as fish are more prone to deeply ingest the hook. Bait is already prohibited within the Ken Lockwood Gorge section of the Raritan.

Amendments establishing a 15-inch size limit and a reduced creel of three largemouth and smallmouth bass per day in lakes with a history of a quality bass fishery, such as Lake Audrey, will have

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positive environmental impacts. The increased size limit and reduced creel limit permits angling to occur while protecting the fishery.

Amendments designating Tilcon Lake as a Holdover Trout Lake will have positive environmental benefits. Designation of the lake as a Holdover Lake will establish conservative size and creel limits for trout and Atlantic landlocked salmon and serve to protect these developing fisheries.

Amendments which add or remove trout stocking locations are designed to increase the overall fishing opportunities in their specific regions. As trout stocked in these locations are short-term seasonal fisheries, the addition or loss of trout in these waters poses neither an environmental benefit nor negative impact.

Amendments requiring commercial snapping turtle harvesters to use traps constructed in a manner that assures a portion of the trap is above the surface of the water, to provide access to air for trapped targeted and non-targeted turtle species, will have a positive environmental benefit by increasing survival of ensnared turtles.

Federal Standards Statement

Executive Order No. 27(1994) and N.J.S.A. 52:14B-1 et seq. require State agencies that adopt, re-adopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The United States Fish and Wildlife Service regulates the harvesting of freshwater fish in National Wildlife Refuge Areas in New Jersey pursu-

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ant to the National Wildlife Refuge System Administration Act, 16 U.S.C. 668dd (1966), and regulations (50 CFR 32-49). In all other areas of the State, where there are no Federal regulations pertaining to the harvest of freshwater fish, the State's Fish Code applies. The proposed amendments to the Fish Code do not contain any standards or requirements that exceed Federal regulations involving the National Wildlife Refuge Areas. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require further analysis.

Job Impacts

The amendments provide for continued recreational and economic benefits to the citizens of the State and the regulated use and proper management of the State's freshwater fisheries resource. Amendments which protect species during their critical spawning periods or set creel or minimum size limits are not expected to produce any job impacts. These amendments impact recreational fisheries and no impact on fishing-related businesses is anticipated. As explained under the Economic Impact Statement, there may be slight negative economic impacts in localized areas where trout stocking is proposed to be discontinued. However, other existing trout fishing opportunities that occur in these areas will offset these impacts. Positive economic benefits are anticipated in areas where new trout fishing opportunities will be created by proposed new areas of trout stocking. However, these economic impacts, whether positive or negative, are not anticipated to result in either the creation or loss of jobs.

No jobs impact is associated with amendments that recognize the existing mandated closures of migratory alewife and blueback herring fisheries, and American shad fisheries, excepting for the Del-

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aware River and its tributaries.

Agricultural Impact Statement

N.J.S.A. 52:14B-4(a)2 requires that agencies proposing a rule include a statement on the impact that the proposal will have on the agricultural industry. In New Jersey, the raising of fish for sale for food or for stocking purposes falls within the realm of agriculture. The proposed amendments are not anticipated to have any impacts on the agricultural industry.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Council has determined that the proposed amendments will have negligible effect on "small businesses" as defined in the Act. Most proposed amendments will only impact individual anglers who are not angling as part of a business. As indicated in the Economic Impact statement, amendments requiring commercial snapping turtle harvesters to use traps assuring trapped turtles have access to air are not anticipated to have any impact to any commercial harvester, regardless of the size of the harvester, as materials typically used for flotation are relatively inexpensive. Similarly, as indicated in the Economic Impact statement the prohibition on the harvest of snapping turtles from waters subject to a Department of Environmental Protection fish consumption advisory is anticipated to have a negligible impact on harvesters, including small businesses. The prohibited waters are those subject to significant fish consumption limitations. Review of harvest reports submitted by snapping turtle harvesters in the past, which include information on the locations in which turtles were

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collected, demonstrates that turtles have not been harvested from these waters in recent years. None of the proposed amendments impose any additional reporting, recordkeeping or other compliance requirements on small businesses. The standards imposed are the minimum determined by the Council to be necessary to protect public health and the environment. Accordingly, no lesser standard is provided for small businesses.

p. 59, 7:25-6.22(d)3viii. This will confirm agreement with addition of the word “devices” after the word “flotation.”

Housing Affordability Impact

Pursuant to N.J.S.A. 52:14B-4, as amended effective July 17, 2008, by P.L. 2008, c. 46, the Council has evaluated the proposed amendments to determine their impact, if any, on the affordability of housing. The Council has evaluated this rulemaking to determine the nature and extent the proposed amendments impact on housing affordability. Since the proposed amendments relate to daily creel, gear types, migratory fish, and the State’s trout stocking program, the Council has determined the proposed amendments do not impact housing affordability.

Smart Growth Development Impact

In accordance with N.J.S.A. 52:14B-4, as amended effective July 17, 2008, by P.L. 2008, c. 46, the Council has evaluated the proposed amendments for purposes of determining their impact, if any, on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan (State Plan).

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The proposed amendments regulate the means, locations, numbers and sizes that freshwater fish may be pursued, caught, killed, or possessed and therefore will have no impact on housing production in Planning Areas 1 or 2, or within designated centers, under the State Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

7:25-6.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Baitfish" means the following species:

1. Alewife([anadromous and] landlocked [forms] **form**) **Alosa pseudoharengus;**
[i. Except in the Delaware River, where alewife is a foodfish in accordance with N.J.S.A. 23:9-5;]
2. American [brook lamprey] **Brook Lamprey** **Lampetra appendix;**
3. American [eel] **Eel** **Anguilla rostrata, greater than six inches in length;**
4. Banded [killifish] **Killifish** **Fundulus diaphanus;**

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[5. Blueback Herring	<i>Alosa aestivalis</i> ,
i. Except in the Delaware River,	
where blueback herring is a	
foodfish in accordance with	
N.J.S.A. 23:9-5;]	
[6.] 5. Bluntnose [minnow] Minnow	<i>Pimephales notatus</i> ;
[7.] 6. Fathead [minnow] Minnow	<i>Pimephales promelas</i> ;
[8.] 7. Gizzard [shad] Shad	<i>Dorosoma cepedianum</i> ;
[9.] 8. Golden [shiner] Shiner	<i>Notemigonus crysoleucas</i> ;
[10.] 9. Margined [madtom] Madtom	<i>Noturus insignis</i> ;
[11.] 10. Mummichog	<i>Fundulus heteroclitus</i> ;
[12.] 11. Rainwater [killifish] Killifish	<i>Lucania parva</i> ;
[13.] 12. Spotfin [killifish] Killifish	<i>Fundulus luciae</i> ;
[14.] 13. Tadpole [madtom] Madtom	<i>Noturus gyrinus</i> ; and
[15.] 14. All shiner, dace, and minnow	<i>Cyprinella</i> , <i>Exoglossum</i>
of the following genera:	<i>Hybognathus</i> , <i>Luxilus</i> , <i>Notropis</i> ,
	<i>Rhinichthys</i> and <i>Semotilus</i> .

• • •

"Foodfish" for the purpose of N.J.A.C. 7:25-6.11 only, means the following species:

1. American [eel] Eel *Anguilla rostrata*;

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2. American [shad] Shad	<i>Alosa sapidissima</i> ;
3. Black [bullhead] Bullhead	<i>Ameiurus melas</i> ;
[4. Blueback herring	<i>Alosa aestivalis</i> ;]
[5.] 4. Bowfin	<i>Amia calva</i> ;
[6.] 5. Brown [bullhead] Bullhead	<i>Ameiurus [nebulosus] nebulosus</i> ;
[7.] 6. Common Carp	<i>Cyprinus carpio</i> ;
[8.] 7. Channel [catfish] Catfish	<i>Ictalurus punctatus</i> ;
[9.] 8. Gizzard [shad] Shad	<i>Dorosoma cepedianum</i> ;
[10.] 9. White [catfish] Catfish	<i>Ameiurus catus</i> ;
[11.] 10. White [perch] Perch	<i>Morone americana</i> ;
[12.] 11. White [sucker] Sucker	<i>Catostomus commersoni</i> ;
[13.] 12. Yellow [bullhead] Bullhead	<i>Ameiurus natalis</i> ;
[14.] 13. Yellow [perch] Perch	<i>Perca flavescens</i> ; and
[15.] 14. Any other marine fish species	
	that is legal for taking with net
	in marine waters, except [striped
	bass] Striped Bass , [and] [alewife] Ale-
	wife and Blueback [herring] Herring .

"Indigenous fish" means the following species and all hybrids and strains thereof, including the young or eggs of any such species:

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1. [alewife] Alewife	<i>Alosa pseudoharengus</i>
2. American [eel] Eel	<i>Anguilla rostrata</i>
3. [banded killifish] Banded Killifish	<i>Fundulus [diaphanous] diaphanus</i>
4. [blueback herring] Blueback Herring	<i>Alosa aestivalis</i>
5. [bowfin] Bowfin	<i>Amia calva</i>
6. Bullhead, [brown] Brown	<i>Ameiurus nebulosus</i>
7. Bullhead, [yellow] Yellow	<i>Ameiurus natalis</i>
8 Catfish, [white] White	<i>Ameiurus catus</i>
9. Creek [chub] Chub	<i>Semotilus atromaculatus</i>
10. Creek [chubsucker] Chubsucker	<i>Erimyzon oblongus</i>
11. Dace, [blacknose] Blacknose	<i>Rhinichthys atratulus</i>
12. Dace, [longnose] Longnose	<i>Rhinichthys cataractae</i>
13. Darter, [shield] Shield	<i>Percina peltata</i>
14. Darter, [swamp] Swamp	<i>Etheostoma fusiforme</i>
15. Darter, [tessellated] Tessellated	<i>Etheostoma olmstedi</i>
16. [eastern mosquitofish] Eastern Mosquitofish	<i>Gambusia holbrooki</i>
17. [eastern mudminnow] Eastern Mudminnow	<i>Umbra pygmaea</i>
18. [fallfish] Fallfish	<i>Semotilus corporalis</i>
19. [hogchoker] Hogchoker	<i>Trinectes [maculates] maculatus</i>
20. [hog sucker, northern] Hogsucker, Northern	<i>Hypentelium nigricans</i>

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21. Lamprey, American [brook] Brook	Lampetra appendix
22. Lamprey, [sea] Sea	<i>Petromyzon marinus</i>
23. [longnose gar] Longnose Gar	<i>Lepisosteus osseus</i>
24. Madtom, [margined] Margined	<i>Noturus insignis</i>
25. [madtom, tadpole] Madtom, Tadpole	<i>Noturus gyrinus</i>
26. [minnow, cutlips] Minnow, Cutlip	<i>Exoglossum maxillingua</i>
27. [minnow, eastern silvery] Minnow, Eastern Silvery	<i>Hybognathus regius</i>
28. [mummichog] Mummichog	<i>Fundulus heteroclitus</i>
29. Perch, [pirate] Pirate	<i>Aphredoderus sayanus</i>
30. Perch, [white] White	<i>Morone americana</i>
31. Perch, [yellow] Yellow	<i>Perca flavescens</i>
32. Pickerel, [chain] Chain	<i>Esox niger</i>
33. Pickerel, [redfin] Redfin	<i>Esox americanus</i>
34. [pumpkinseed] Pumpkinseed	<i>Lepomis gibbosus</i>
35. Quillback	<i>Carpoides cyprinus</i>
36. Sculpin, [slimy] Slimy	<i>Cottus cognatus</i>
37. Shad, American	<i>Alosa sapidissima</i>
38. [shad, hickory] Shad, Hickory	<i>Alosa mediocris</i>
39. [shad, gizzard] Shad, Gizzard	[<i>Drosoma</i>] <u>Dorosoma</u> <i>cephedianum</i>
40. [shiner, bridle] Shiner, Bridle	<i>Notropis bifrenatus</i>
41. [shiner, comely] Shiner, Comely	<i>Notropis amoenus</i>

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|---|--|
| 42. [shiner, common] Shiner, Common | [<i>Luxilis</i>] Luxilus cornutus |
| 43. [shiner, golden] Shiner, Golden | <i>Notemigonus crysoleucas</i> |
| 44. [shiner, ironcolor] Shiner, Ironcolor | <i>Notropis chalybaeus</i> |
| 45. [shiner, satinfir] Shiner, Satinfir | <i>Cyprinella analostana</i> |
| 46. [shiner, spotfin] Shiner, Spotfin | <i>Cyprinella spiloptera</i> |
| 47. [shiner, spottail] Shiner, Spottail | <i>Notropis [husdonius] hudsonius</i> |
| 48. [shiner, swallowtail] Shiner, Swallowtail | <i>Notropis procne</i> |
| 49. Stickleback, [fourspine] Fourspine | <i>Aplettes quadracus</i> |
| 50. Stickleback, [threespine] Threespine | <i>Gasterosteus aculeatus</i> |
| 51. Stickleback, [ninespine] Ninespine | <i>Pungitius pungitius</i> |
| 52. [striped bass] Striped Bass | <i>Morone saxatilis</i> |
| 53. [sturgeon] Sturgeon, Atlantic | <i>Acipenser [oxyrhynchus] oxyrinchus</i> |
| 54. [sturgeon, shortnose] Sturgeon, Shortnose | <i>Acipenser brevirostrum</i> |
| 55. [sucker, white] Sucker, White | <i>Catostomus [commersoni] commersonii</i> |
| 56. [sunfish, banded] Sunfish, Banded | <i>Enneacanthus obesus</i> |
| 57. [sunfish, blackbanded] Sunfish, Black-banded | <i>Enneacanthus chaetodon</i> |
| 58. [sunfish, bluespotted] Sunfish, Bluespot- | <i>Enneacanthus gloriosus</i> |
| ted | |
| 59. [sunfish, mud] Sunfish, Mud | <i>Acantharchus pomotis</i> |
| 60. [sunfish, redbreasted] Sunfish, Red- | <i>Lepomis auritus</i> |

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breast

61. [trout, brook] **Trout, Brook** *Salvelinus fontinalis*

• • •

"Oswego bass" or "black bass" shall mean largemouth and smallmouth bass.

"Potentially dangerous fish" means the following species:

1. Asian [swamp eel] **Swamp Eel** *Monopterus albus*
2. Bighead [carp] **Carp** *Hypophthalmichthys [nobolis] nobilis*
3. Brook [stickleback] **Stickleback** *Culaea inconstans*
4. Flathead [catfish] **Catfish** *Pylodictis olivaris*
5. Grass [carp] **Carp** (diploid) *Ctenopharyngodon idella*
6. Green [sunfish] **Sunfish** *Lepomis cyanellus*
7. Snakeheads *Channa spp.*
8. Oriental [Weatherfish] **Weatherfish** *Misgurnus anguillicaudatus*
9. Silver [carp] **Carp** *Hypophthalmichthys molitrix*
10. Warmouth *Lepomis gulosus*

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"Set line" means a line(s) to which a hook(s) is attached placed in freshwaters of the State for the purpose of taking fish or turtles, that is secured to shore, or to a fixed or buoyant object, except as permitted when ice fishing. All rods, reels or hand lines not under immediate control will be considered unattended and considered a set line. In accordance with N.J.S.A. 23:5-13 set lines are prohibited in any State water inhabited by pickerel, pike, pike perch, black bass, Oswego bass, white bass, calico bass, perch or trout.

• • •

"Trout" shall include the following species and all hybrids and strains thereof:

1. Atlantic (landlocked) [salmon] **Salmon** *Salmo salar*
2. Brook [trout] **Trout** *Salvelinus fontinalis*
3. Brown [trout] **Trout** *Salmo trutta*
4. Lake [trout] **Trout** *Salvelinus namaycush*
5. Rainbow [trout] **Trout** *Oncorhynchus mykiss*

• • •

"Warmwater fish" includes the following species and all hybrids and strains thereof:

1. Banded [sunfish] **Sunfish** *Enneacanthus obesus*
2. Blackbanded [sunfish] **Sunfish** *Enneacanthus chaetodon*

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3. Black [crappie] Crappie	<i>Pomoxis nigromaculatus</i>
4. (No change.)	<i>Lepomis macrochirus</i>
5. Bluespotted [sunfish] Sunfish	<i>Enneacanthus gloriosus</i>
6. Chain [pickerel] Pickerel	<i>Esox niger</i>
7. Channel [catfish] Catfish	<i>Ictalurus punctatus</i>
8. Largemouth [bass] Bass	<i>Micropterus salmoides</i>
9. Longear [sunfish] Sunfish	<i>Lepomis megalotis</i>
10. Mud [sunfish] Sunfish	<i>Acantharchus pomotis</i>
11. (No change.)	<i>Esox masquinongy</i>
12. Northern [pike] Pike	<i>Esox lucius</i>
13. (No change.)	<i>Lepomis gibbosus</i>
14. Redbreast [sunfish] Sunfish	<i>Lepomis auritus</i>
15. Redear [sunfish] Sunfish	<i>Lepomis microlophus</i>
16. Redfin [pickerel] Pickerel	<i>Esox americanus americanus</i>
17. Smallmouth [bass] Bass	<i>Micropterus [dolomieu] dolomieu</i>
18. Striped [bass] Bass	<i>Morone saxatilis</i>
19. (No change.)	<i>Sander vitreus</i>
20. White [crappie] Crappie	<i>Pomoxis annularis</i> ; and
21. Yellow [perch] Perch	<i>Perca flavescens</i>

7:25-6.3 Trout season and angling in trout stocked waters

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- (a) (No change.)
- (b) Except as provided in N.J.A.C. 7:26-6.4, 6.6 to 6.9 and (b)1 below, it shall be unlawful to fish for any species of fish during the pre-season closure in ponds, lakes or those portions of streams that are listed herein for stocking.
1. [Farrington Lake, Middlesex County;] Lake Hopatcong, Morris/Sussex County; **Lawrence Brook, from Davidson's Mill Road bridge downstream to Farrington Lake dam, Middlesex County, Mountain Lake, Warren County;** Swartswood Lake, Sussex County; Shenandoah Lake, and Prospertown Lake, Ocean County, will remain open to angling year-round. Trout taken during the pre-season closure must be returned to the water immediately and unharmed.
- (c)-(g) (No change.)
- (h) [Except as provided in N.J.A.C. 7:25-6.6 to 6.9, in trout-stocked waters for which in-season closures will be in force, waters will be closed from 5:00 A.M. to 5:00 P.M. for stocking on the dates and at the locations indicated below, provided that in the event of emergent conditions, the Division may suspend stocking of any or all of the waters listed below:] **This subsection sets forth trout stocked waters subject to in-season closures. Except as provided in N.J.A.C. 7:25-6.6 to 6.9, these waters will be closed from 5:00 A.M. to 5:00 P.M. for stocking on the dates and at the locations indicated below. In the event of emergent conditions, the Division may suspend stocking of any or all of these waters.**
1. (No change.)

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2. Each Tuesday during the in-season stocking period.
 - i. Pohatcong Creek--Route 31 to Delaware River.
 - ii. Raritan River, S. Br.--Budd Lake dam through **Morris**, Hunterdon and Somerset Counties to Jct. with N. Br. Raritan River.

3. – 5. (No change.)

(i) This subsection sets forth trout stocked waters for which no in-season closures will be in force.

1.-11. (No change.)

12. Middlesex County

[Farrington Lake--North Brunswick]

• • •

Lawrence Brook--[Dam at Farrington Lake] **Davidson's Mill Pond** dam to 2nd RR Bridge (Raritan Railroad) below Main St., Milltown

Manalapan Lake – Monroe Township

• • •

13. Monmouth County

• • •

Englishtown Mill Pond--Englishtown

Franklin Lake-West Long Branch

• • •

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[Hockhocksen] **Hockhockson** Brook—[Hockhocksen] **Hockhockson** Road to Garden

State Parkway [Bridge] **bridge**

(northbound)

• • •

[Shadow Lake--Red Bank]

• • •

[Takanassee Lake--Long Branch]

• • •

14.-15. (No change.)

16. Passaic County

• • •

Green Turtle Pond—Hewitt, **Long Pond Iron Works State Park**

• • •

17.-18. (No change.)

19. Sussex County

• • •

Clove [River] **Brook**—**Wantage**, Junction of Route 23 and Mt. Salem Road to Route

565 [Bridge] **bridge**

• • •

Glenwood Brook--Lake Glenwood **dam** to **New York** State line

• • •

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Wawayanda Creek--Vernon

• • •

20. Union County

• • •

Milton Lake—Rahway

Nomahegan Park Pond – Cranford

• • •

21. Warren County

• • •

Brookaloo Swamp – **Hope**, entire length

• • •

Merrill Creek Reservoir—Stewartsville

Mountain Lake—Liberty Township

• • •

7:25-6.4 Special regulation trout fishing areas—[fly fishing waters] **catch and release only**

(a) [Beginning January 1 to pre-season closure and from 5:00 A.M. on the second Monday after opening day to December 31, the following stretch is open to fly-fishing only, and closed to all fishing from 5:00 A.M. to 5:00 P.M. on the days listed for stocking during the in-season stocking period:] **The following stream segments are designated as catch and release only areas for trout and are subject to the provisions at (b) below governing these areas on a year-round basis:**

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1. Big Flat Brook, Sussex County--from the concrete bridge on Route 206 downstream to the Roy Bridge on Mountain Road, a distance of approximately four miles, [except that portion known as the Blewett Tract, regulated below at (b)1] **including the section of the Flat Brook, from the junction of the Big Flat Brook and the Little Flat Brook downstream to the Roy Bridge.**

2. South Branch of the Raritan River, Hunterdon County--the stretch of water known as the "Ken Lockwood Gorge," a distance of approximately 2 1/2 miles.

[(b) Beginning January 1 to the pre-season closure and from 8:00 A.M. on opening day to December 31, the following stretch is open to fly-fishing only, but is closed to all fishing from 5:00 A.M. to 5:00 P.M. on days listed for stocking during the in-season stocking period:

1. Big Flat Brook, Sussex County--an approximate 0.5 mile portion, clearly defined by markers, known as the Blewett Tract, which extends from the Three Bridges Road to a point upstream of the junction of the Big Flatbrook and the Little Flatbrook.

(c) The following rules shall apply to the above designated fly-fishing waters.

1. Fishing in Fly-Fishing Waters is permitted 24 hours daily except on those days during April and May when they are closed for stocking.

2. A person shall not take, kill, or have in possession more than six trout daily from opening day through May 31; at other times the limit is four.

3. No bait or lures of any kind shall be used except artificial flies which are expressly limited to dry flies, wet flies, bucktails, nymphs and streamers. Expressly prohibited are metal, plastic or wooden lures, plugs, spinners and flies with spinners attached or any multiple-hooked device.

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4. Expressly prohibited are spinning reels or any type of angling whereby the fly is cast directly from the reel.

5. No person may have in possession while engaged in angling on the waters designated as fly waters, any natural bait, live or preserved, in that period of time during which fly-fishing only is in effect.

6. A person shall not have in possession, while fishing, any substance, either as a natural or synthetic compound, that contains a concentration of bait scent or such scent enhanced bait.]

(b) The following rules shall apply to the above designated catch and release only waters.

1. Fishing in catch and release only areas is permitted year-round;

2. Only artificial lures and flies may be used.

3. A person shall not have in possession while fishing any natural bait, live or preserved;

4. A person shall not have in possession, while fishing, any substance, either as a natural or synthetic compound, that contains a concentration of bait scent or such scent enhanced bait;
and

5. A person shall not kill or have in possession while fishing any trout. All trout must be returned to the water immediately and unharmed.

7:25-6.6 Special regulation trout fishing areas--Wild Trout Streams

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(a) The following streams, or portions thereof, are designated as "Wild Trout Streams." Listing of streams in this category does not convey the right to trespass or fish on private lands without the landowner's permission. These waters will not be stocked with trout. Unless otherwise noted, the entire length of the stream is included in the designation.

1.-22. (No change.)

23. [Rhineharts] **Rinehart** Brook (Hacklebarney State Park);

24.-28. (No change.)

29. [Tetertown] **Teetertown** Brook [(Tetertown)] (**Lebanon Twp. (Hunterdon); Washington Twp. (Morris)**);

30.-36. (No change.)

(b) (No change.)

7:25-6.7 Special regulation trout fishing areas--Year-Round Trout Conservation Areas

(a) The following stream segments are designated as Year-Round Trout Conservation Areas and are subject to the provisions at (b) below governing these areas on a year-round basis:

1. – 2. (No change.)

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3. South Branch Raritan River, Morris County--an approximate 1.1 mile stretch of river, locally known as the Claremont Stretch extending from the downstream end of the posted Anglers Anonymous property downstream to its junction with Electric Brook[; and].

[4. South Branch of the Raritan River, Hunterdon County--the stretch of water known as the "Ken Lockwood Gorge," a distance of approximately 2 1/2 miles.]

(b) (No change.)

7:25-6.9 Special regulation trout fishing areas--Holdover Trout Lakes

(a) The following lakes are designated as Holdover Trout Lakes:

[1. Clinton Reservoir;

2. Wawayanda Lake;

3. Sheppard Lake;

4. Aeroflex Lake; and

5. White Lake, Warren County.]

1. Aeroflex Lake (Sussex);

2. Clinton Reservoir (Passaic);

3. Sheppard Lake (Passaic);

4. Tilcon Lake (Morris);

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5. Wawayanda Lake (Sussex); and

6. White Lake, (Warren).

(b) (No change.)

7:25-6.10 Baitfish

(a) Any person, who has a fishing license or is under the age of 16 or over 70 years of age, may take up to 35 baitfish, **except Alewife and/or Blueback Herring,** per person per day[, of which no more than 10, in the aggregate, may be alewife and/or blueback herring,] from the freshwaters of the State. **Alewife and Blueback Herring may only be possessed, taken, attempted to be taken, sold or purchased in accordance with (b) through (d) below.** Except as provided in (d) below, no person shall possess, in any location, more than one day's limit, regardless of when the fish were taken and whether the fish are intended to be used as bait or food.

(b) The possession, take, attempt to take, sale or purchase of Alewife or Blueback Herring from any freshwater stream or river is prohibited.

(c) Up to 35 Alewife or Blueback Herring, no greater than six inches in length, may be taken for personal use from freshwater lakes in Morris, Passaic, Sussex, and Warren counties, and from Spruce Run Reservoir, located in Hunterdon County. Landlocked herring taken

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from lakes within these counties may only be used on the lake from which they were taken, on the day they were taken. Any unused herring must be returned to the waterbody upon the conclusion of the angler's fishing trip on the day that they were taken. Landlocked herring taken pursuant to this subsection shall not be transported away from the shoreline of the lake by any mechanism. They shall not be sold.

(d) In freshwater lakes, other than those specified in (c) above, only purchased herring, no greater than six inches in length, may be possessed for up to seven days from date of purchase, when accompanied by a receipt. The receipt must list the name, address and telephone number of the place of purchase, the date of purchase, and quantity purchased. This receipt must be without erasures or alterations of any kind and must have a control number. Purchased herring may be possessed in excess of the daily limit.

[(b)] (e) Except as provided for in trout-stocked waters listed in N.J.A.C. 7:25-6.3 through 6.9 and [(c)] (f) [and (d)] below baitfish, **except for Alewife and Blueback Herring**, up to the daily limit may be taken from freshwaters of the State by the following means: hook and line; dip net not more than 24 inches in diameter; minnow traps not larger than 24 inches in length with a funnel mouth no greater than two inches in diameter; a cast net no greater than eight feet in diameter, and an umbrella net no greater than 3.5 feet square.

1. (No change.)

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[(c)] **(f)** In trout stocked waters and special regulation areas, listed in N.J.A.C. 7:25-6.3 to 6.9, it is prohibited to net, trap or attempt to net or trap baitfish from the pre-season closure through June 15 except where the taking is otherwise provided for in this subchapter. For the remainder of the year, baitfish, **except for Alewife and Blueback Herring**, up to the daily limit, may be taken with a seine not over 10 feet in length and four feet in depth or a minnow trap not larger than 24 inches in length with a funnel mouth no greater than two inches in diameter or an umbrella net no greater than 3.5 feet square. The use of cast nets is not permitted in these waters at any time.

[(d) Purchased herring may be possessed in excess of the daily limit, for up to seven days from date of purchase, when accompanied by a receipt. The receipt must list the name, address and telephone number of the place of purchase, date of purchase, and quantity purchased. This receipt must be without erasures or alterations of any kind and must have a control number.]

[(e)] **(g)** (No change in text.)

7:25-6.11 Nets and alternative gear

(a) Except as provided for the taking of baitfish, it shall be illegal to take fish from the freshwaters of the State by means of nets except under special permit issued by the Division at its discretion and as hereafter provided for in the tidal freshwaters of New Jersey, other than the Delaware River:

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1. (No change.)
2. It shall be legal to take and sell foodfish as defined in N.J.A.C. 7:25-6.2 by the [following] means[:] identified in (i) to (v) below. **American Shad may only be taken from the Delaware River and its tributaries.**
 - i.-iii. (No change.)
 - iv. Drifting gill nets, the smallest of which shall be five and one quarter inches stretched measure while being fished and shall not exceed 100 feet in length, for all species may be used from March 1 to June 15. **Drifting gill nets may not be used in freshwater rivers or streams where migratory Alewife or Blueback Herring are known to occur.**
 - v. Gill nets with a mesh not smaller than two and three quarters stretched measure, while being fished and not exceeding 200 feet in length may be used from May 1 to June 10 for the purpose of taking [blueback herring and] White Perch. **Gill nets may not be used in freshwater rivers or streams where migratory Alewife or Blueback Herring are known to occur.**

3.-6. (No change.)

7:25-6.13 Warmwater fish

- (a)-(c) (No change.)
- (d) During the period of April 15 through June 15, the possession of Largemouth and Small-mouth bass is prohibited and all bass caught shall be immediately returned to the water unharmed[,

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except for Lake Audrey (Cumberland County) where Largemouth and Smallmouth bass caught shall be immediately returned to the water unharmed at all times].

(e) The minimum length for Smallmouth Bass and Largemouth Bass shall be 12 inches with a daily creel and possession limit of five in total, except for Alloway Lake (Salem County), Assunpink Lake (Monmouth County), **Lake Audrey (Cumberland County)**, Boonton Reservoir (Morris County), Delaware Lake (Warren County), Parvin Lake (Salem County), and Splitrock Reservoir (Morris County) where the minimum length for Largemouth and Smallmouth Bass shall be 15 inches with a daily creel and possession limit of three in total and Ryker Lake where the minimum length shall be 15 inches with a daily creel and possession limit of two in total.

(f)-(n) (No change.)

(o) **Except as provided for the Delaware River in N.J.A.C. 7:25-6.20,** [The daily creel and possession limit for] American shad **may not be taken or possessed at any time.** [shall be three. There is no closed season.]

(p)-(u) (No change.)

7:25-6.14 Ice fishing

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- (a) (No change.)
- (b) A person, while fishing through the ice, may use not more than five devices for the taking of fish. [The types of devices that may be used are:] **Devices may consist of any combination of ice supported tip-ups, fishing rods, or hand lines. Each device may have only one single line attached.**
 - 1. Ice supported tip-ups or [lines with] **hand lines may have only** one single pointed hook attached;
 - 2. [An artificial jigging lure with not more than one burr of three hooks that measure not more than 1/2 inch from point to point;] **The line from a fishing rod may have attached either one single pointed hook; or an artificial lure with not more than three single hooks and one burr of three hooks. On artificial lures, single hooks may not measure more than 1/2 inch from point to shaft, and hooks on burrs may not exceed ½ inch from point to point.**
 - [3. An artificial jigging lure with not more than three single hooks measuring not more than 1/2 inch from point to shaft;
 - 4. An artificial jigging lure with a combination of the hook limitations described in (b)2 and 3 above.]
- (c) Natural **and artificial** bait may be used [on the hooks of the artificial jigging lure] **with any ice fishing device.**
- (d) All devices that are not hand-held must be clearly marked with the name and address of the user and shall not be left unattended.
- (e) **All established creel, season, and size limits apply.**

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7:25-6.20 Delaware River between New Jersey and Pennsylvania

(a) In cooperation with the Pennsylvania Fish and Boat Commission, the following regulations for the Delaware River between New Jersey and Pennsylvania are made a part of the New Jersey State Fish and Game Code and will be enforced by the conservation authorities of each state.

1. Species	Season	Size Limit	Daily Bag
• • •			Limit
Alewife and blueback (anadromous forms)	[No closed season] Closed	[No minimum]	[10 in total]
• • •			

2.-7. (No change.)

7:25-6.21 [Fresh Tidal Tributaries of the Delaware River and Bay] (**Reserved**)

[Atlantic sturgeon may not be taken or possessed at any time.]

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7:25-6.22 Snapping turtles, bull frogs and green frogs

(a)-(c) (No change.)

(d) Snapping turtles, bull frogs and green frogs may be taken in numbers greater than the daily limit under special permit issued by the Division, for the purposes of sale, at its discretion. In addition to any other Federal, State or local requirements that may be applicable to any sale authorized under this section, any sale must comply with Department of Health and Senior Services rule N.J.A.C. 8:23-2.1.

1.-2. (No change.)

3. The permittee shall agree to:

i. – v. (No change.)

vi. Use only those traps that provide a means of escape, or survival, of species of turtles other than snapping turtles; [and]

vii. Set traps in a manner that allows at least the topmost two inches of the trap to remain exposed, at all times, above the surface of the water;

viii. Use flotation devices that have sufficient strength to support the weight of the trap and keep it afloat for at least 24 hours;

[vii.] **ix. Comply with any local ordinances and other State laws or regulations[.] and;**

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x. Not harvest from any water subject to a Department of Environmental Protection fish consumption advisory, for the general population, for any fish species of “do not harvest,” “do not eat,” or “no more than one meal per year.”

e. (No change.)